

THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

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Hilda Kennedy,

:

Civil Complaint

Plaintiff,

- against -

:

New York Presbyterian Hospital,

:

Case Number: 09-CV-6256

and Edward Lai, M.D.,

:

Benjamin Levine, M.D.,

Paul Chan, M.D.,

:

and Scott Warden M.D.,

:

Defendants.

:

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Preliminary Statement

- 1.) This diversity action makes claim for medical malpractice.

Jurisdiction

- 2.) Diversity jurisdiction for the federal courts exists pursuant to 28 USC 1332(a) as plaintiff is a New Jersey domiciliary and, upon information and belief, Defendants are domiciliaries of States other than New Jersey, and the amount in controversy exceeds \$75,000.
- 3.) Defendant Weill Cornell Medical College is located in the State of New York, County of New York.

4.) Defendant New York Presbyterian Hospital is located in the State of New York, County of New York.

5.) Doctor Edward Lai upon information and belief, is a New York domiciliary.

6.) Doctor Benjamin Levine upon information and belief, is a New York domiciliary.

7.) Doctor Paul Chan, upon information and belief, is a New York domiciliary.

8.) Doctor Scott Warden, upon information and belief, is a New York domiciliary.

Venue

9.) Venue is proper in Southern District of New York pursuant to 28 USC 1391 (a) 2 as all of the acts which comprise the claim occurred in New York County.

Parties

- 10.) Plaintiff is an individual under no disability.
- 11.) New York Presbyterian Hospital is provider of medical services and is located in the State of New York, county of New York.
- 12.) Edward Lai, M.D., Benjamin Levine, M.D., Paul Chan, M.D., and Scott Warden M.D., are all individuals, licensed to practice medicine in the State of New York with attending privileges at New York Presbyterian Hospital all of whom, at all relevant periods of time, were acting during and in the scope of their employment. None is under disability.

Factual Allegations

- 13.) On April 2008 through October 2008 plaintiff was treated at Weill Cornell Medical College and New York Presbyterian Hospital for an eye condition.

14.) On those above dates, eye surgery was performed upon the Plaintiff by Edward Lai, M.D. assisted by Benjamin Levine, M.D., Paul Chan, M.D., Scott Warden, M.D. (collectively "the Doctors")

15.) The eye surgery performed by the Doctors was done negligently as the doctors did not utilize ordinary care which would be expected of an eye surgeon practicing in the New York Metropolitan area.

16.) The Doctors either worked as employees of Weill Cornell Medical College and New York Presbyterian Hospital or had attending privileges at Weill Cornell Medical College and New York Presbyterian Hospital which either knew or should have known of the negligence of the doctors but took no action to ameliorate the harm done to plaintiff.

17.) Nor did New York Presbyterian Hospital effectively supervise and monitor the surgery performed by the Doctors. Nor did New York Presbyterian Hospital provide any non-negligent surgeons nor assistants to the Plaintiff once it should have become apparent that such was needed by Plaintiff.

- 18.) Due solely to the negligent acts and/or omissions of the defendants, plaintiff suffered extreme pain and a loss of vision and could not function on a daily basis.
- 19.) Due solely to the negligence of defendants, plaintiff had to have additional multiple eye surgery to correct the work negligently performed by the defendants.
- 20.) Specifically, Plaintiff, solely due to the negligence, carelessness and recklessness of the Defendants, Plaintiff needed to undergo a Cornea Transplant.

Wherefore plaintiff respectfully requests judgment as follows:

- A.) Legal relief in the amount of five million dollars;, and
- B.) Such other relief as may be just.

Dated: New York, New York
January 29, 2009



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